

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 749

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; AUTHORIZING
SEVERANCE TAX BONDS TO FUND URANIUM LEGACY CLEANUP ACTIVITIES;
MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

A. "department" means the energy, minerals and
natural resources department;

B. "financial assistance" means providing grants or

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underscored material = new
[bracketed material] = delete

1 loans on terms and conditions approved by the secretary for
2 qualified projects;

3 C. "fund" means the uranium legacy cleanup fund;

4 D. "qualified project" means a project selected by
5 the secretary for financial assistance; and

6 E. "secretary" means the secretary of energy,
7 minerals and natural resources.

8 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--
9 CREATED--PURPOSE--APPROPRIATIONS.--

10 A. The "uranium legacy cleanup fund" is created as
11 a nonreverting fund in the state treasury and shall be
12 administered by the department. The fund shall consist of the
13 proceeds from severance tax bonds issued pursuant to Section
14 7-27-10.2 NMSA 1978; money that is repaid from loans approved
15 by the secretary; and money that is appropriated or donated or
16 that otherwise accrues to the fund. Money in the fund shall be
17 invested by the state investment officer in the manner that
18 land grant permanent funds are invested pursuant to Chapter 6,
19 Article 8 NMSA 1978. Income from investment of the fund shall
20 be credited to the fund.

21 B. The department shall establish procedures and
22 adopt rules as required to administer the fund and to originate
23 grants or loans for qualified projects approved by the
24 secretary.

25 C. Money in the fund shall be appropriated by the

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1 legislature to the department to carry out the purposes of the
2 Uranium Legacy Cleanup Act by providing financial assistance
3 for qualified projects. Money shall be disbursed from the fund
4 only on warrant of the secretary of finance and administration
5 upon vouchers signed by the secretary of energy, minerals and
6 natural resources or the secretary's authorized representative.
7 Any unexpended or unencumbered balance remaining at the end of
8 a fiscal year shall not revert to the general fund.

9 Section 4. [NEW MATERIAL] DUTIES OF THE SECRETARY.--

10 A. Expenditures from the fund for financial
11 assistance shall be approved by the secretary for qualified
12 projects directed at the elimination or reduction of actual or
13 potential exposure of persons to contamination that may have
14 resulted from uranium mining or milling activities that
15 occurred prior to July 1, 2009.

16 B. The secretary shall adopt rules for applying for
17 financial assistance from the fund and for establishing
18 priorities for qualified projects. The priorities for
19 approving qualified projects shall be based upon:

20 (1) the protection of public health, safety
21 and welfare;

22 (2) the protection of the environment from
23 existing or potential contamination;

24 (3) the ability to leverage funds available
25 from other sources to implement qualified projects;

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1 (4) the degree to which a qualified project
2 can be completed with the requested funding;

3 (5) the size of the area to be included with
4 the qualified project;

5 (6) the number of persons affected or
6 potentially affected by contamination at the site of the
7 qualified project;

8 (7) the level of actual or potential radiation
9 exposure at the site of the qualified project;

10 (8) the potential for an increase of the area
11 contaminated or potential exposure to persons if the site of a
12 qualified project is not cleaned up;

13 (9) the lack of any potentially responsible
14 party obligated to conduct a cleanup pursuant to any federal,
15 state or tribal law;

16 (10) the potential uses for the site following
17 the completion of the qualified project; and

18 (11) the legal authority of the applicant to
19 conduct cleanup activities on the proposed site.

20 C. Financial assistance may be provided to
21 qualified projects in which the state of New Mexico, other
22 state governments, the federal government, tribal governments
23 and other public and private entities are participating.

24 Section 5. [NEW MATERIAL] REPORT TO LEGISLATURE.--The
25 secretary shall report to the appropriate interim legislative

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1 committee no later than October 1 of each year regarding the
2 total expenditures from the fund for the previous fiscal year,
3 the purposes for which expenditures were made, an analysis of
4 the progress of the projects funded and proposals for
5 legislative action in the subsequent legislative session.

6 Section 6. A new section of the Severance Tax Bonding
7 Act, Section 7-27-10.2 NMSA 1978, is enacted to read:

8 "7-27-10.2. [NEW MATERIAL] BONDING CAPACITY--
9 AUTHORIZATION FOR SEVERANCE TAX BONDS--URANIUM LEGACY CLEANUP
10 PROJECTS.--

11 A. After the board of finance division of the
12 department of finance and administration estimates the amount
13 of bonding capacity available for severance tax bonds to be
14 authorized by the legislature pursuant to Section 7-27-10.1
15 NMSA 1978, the division shall reserve ten percent of the
16 estimated bonding capacity each year. The legislature
17 authorizes the state board of finance to issue severance tax
18 bonds in the annually reserved amount for use by the energy,
19 minerals and natural resources department to fund uranium
20 legacy cleanup projects.

21 B. The energy, minerals and natural resources
22 department shall certify to the state board of finance the need
23 for issuance of bonds for uranium legacy cleanup projects. The
24 state board of finance may issue and sell the bonds in the same
25 manner as other severance tax bonds in an amount not to exceed
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1 the authorized amount provided for in Subsection A of this
2 section. If necessary, the state board of finance shall take
3 the appropriate steps to comply with the federal Internal
4 Revenue Code of 1986, as amended. Proceeds from the sale of
5 the bonds are appropriated to the uranium legacy cleanup fund
6 for the purposes certified by the secretary of energy, minerals
7 and natural resources to the state board of finance.

8 C. Money from the severance tax bonds provided for
9 in this section shall not be used to pay indirect project
10 costs. Any unexpended balance from proceeds of severance tax
11 bonds issued for a uranium legacy cleanup project shall revert
12 to the severance tax bonding fund within six months of
13 completion of the uranium legacy cleanup project. The energy,
14 minerals and natural resources department shall monitor and
15 ensure proper reversions.

16 D. As used in this section, "uranium legacy cleanup
17 project" means a capital outlay project for qualified projects
18 pursuant to the Uranium Legacy Cleanup Act."

19 Section 7. SEVERABILITY.--If any part or application of
20 the Uranium Legacy Cleanup Act is held invalid, the remainder
21 or its application to other situations or persons shall not be
22 affected.

23 Section 8. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2009.